REMARKS

Initially, Applicants express appreciation to the Examiner for the detailed Official Action provided. Additionally, Applicants express appreciation for the courtesies extended by the Examiner to Applicants' representative James Bonnamy during the telephone interview of October 27, 2009. During the telephone interview, the outstanding rejection of the claims under 35 U.S.C. § 103 was discussed. In this regard, it was discussed and acknowledged that, based on the Examiner's present understanding of the applied references, amending independent claims 1 and 6 as set forth herein would overcome the outstanding rejection under 35 U.S.C. § 103.

Accordingly, upon entry of the present paper, claims 1 and 6 will have been amended in accordance with the discussion with the Examiner on October 27, 2009. Additionally, claims 14-15 will have been added to recite an additional feature that the Examiner acknowledged to be lacking from the applied art of record. The herein contained amendments should not be considered an indication of Applicants' acquiescence as to the propriety of the outstanding rejection. Rather, Applicants have amended the claims in order to advance prosecution and obtain early allowance of the claims in the present application. Furthermore, no prohibited new matter has been introduced by the abovementioned amendments. Specifically, the amendments to claims 1 and 6 and new claims 14-15 are supported at least by page 9, lines 11-17 and page 17, lines 14-19 of the present application as filed (¶[0065] and ¶[0106] of corresponding U.S. Pat. Appl. Pub. No. 2007/0162707). Thus, upon entry of the present paper, claims 1-3, 5-7, 9, and 14-15 are pending in the present application, with claims 1 and 6 being in independent form.

Applicants address the rejection provided within the Official Action below and respectfully request reconsideration and withdrawal thereof together with an indication of the allowability of claims 1-3, 5-7, 9, and 14-15 (*i.e.*, all pending claims) in the next Official communication. Such action is respectfully requested and is now believed to be appropriate for at least the reasons provided below.

35 U.S.C. § 103 Claim Rejections

In the outstanding Official Action, claims 1-3, 5-7, and 9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Applicant's Admitted Prior Art (hereinafter "AAPA") in view of U.S. Pat. No. 5,535,369 to Wells et al. (hereinafter "WELLS") in view of U.S. Pat. No. 5,287,500 to Stoppani, Jr. (hereinafter "STOPPANI").

Applicants again note that, upon entry of the present paper and without acquiescing in the propriety of the outstanding rejection, independent claims 1 and 6 will have been amended to each recite that the information acquired from the information recording medium indicates information for determining the predetermined threshold number of clusters necessary for writing the data at least at a predetermined minimum speed. In this regard, Applicants respectfully traverse the outstanding rejection.

According to independent claims 1 and 6, a recording area of an information recording medium is managed in units of blocks, with each block including at least two clusters as units for storing data. The blocks are searched for a valid block that has at least a predetermined threshold number of unused clusters, and data is written in the valid block before being written in the searched blocks having less that the predetermined threshold number of unused clusters.

As recited by amended independent claims 1 and 6, information about the predetermined threshold number of unused clusters is acquired from the information recording medium. The information acquired from the information recording medium indicates information for determining the predetermined threshold number of clusters necessary for writing data at least at a predetermined minimum speed. According to a non-limiting and advantageous effect of such a feature, the information acquired from the information recording medium enables a minimum performance threshold to be obtained. For example, in a non-limiting and exemplary embodiment of the present application, the information acquired from the information recording medium indicates information for determining the predetermined threshold number of clusters such that movie content can be recorded to the information recording medium in real-time.

Applicants respectfully submit that, as acknowledged by the Examiner during the telephone interview of October 27, 2009, AAPA, WELLS, and STOPPANI, whether considered alone or together in any proper combination thereof, fail to disclose or render obvious such a feature. That is, Applicants respectfully submit that the combination of AAPA, WELLS, and STOPPANI fails to disclose the feature, as recited by amended independent claims 1 and 6, of the information acquired from the information recording medium indicating information for determining the predetermined threshold number of clusters necessary to write the data at least at a predetermined minimum speed.

Applicants submit that, STOPPANI merely discloses a system for maintaining a free space table 240 (STOPPANI, col. 6, lines 25-26). The free space table 240 includes a separate record or entry 242 for a plurality of storage devices mounted on a computer system (STOPPANI, col. 6, lines 25-28). Each record points to a linked list of free

storage descriptors 244, each of which represents a contiguous set of free storage clusters of a predetermined size (STOPPANI, col. 6, lines 22-24 and 28-31).

In the outstanding Official Action, it appears that the Examiner asserts that STOPPANI discloses that information (*i.e.*, the information that indicates that a contiguous set of free storage clusters of a predetermined size is free) is acquired from the storage devices. In this regard, without acquiescing in the propriety of the Examiner's assertion, Applicants submit that STOPPANI does not disclose that information for determining the predetermined size of the contiguous sets of free storage clusters that is necessary for writing data to the contiguous sets of free storage clusters at a predetermined minimum speed is acquired from the storage devices.

Furthermore, with respect to AAPA and WELLS, Applicants note that the Examiner has acknowledged, on page 4 of the outstanding Official Action, that AAPA and WELLS do not disclose the feature of a predetermined threshold number of unused clusters and the feature of acquiring information about the predetermined threshold number of unused clusters from the information recording medium. Thus, Applicants respectfully submit that AAPA and WELLS cannot be reasonably interpreted to disclose the feature of amended independent claims 1 and 6 of acquiring information from the information recording medium that indicates information for determining the predetermined threshold number of clusters necessary to write the data at least at a predetermined minimum speed.

Accordingly, at least in view of the above, and as acknowledged by the Examiner during the telephone interview of October 27, 2009, it is submitted that AAPA, WELLS, and STOPPANI, in the combination set forth in the Official Action, fail to disclose or

render obvious each and every feature recited by independent claims 1 and 6. Thus, Applicants respectfully request that the rejection of such claims under 35 U.S.C. § 103 be withdrawn in the next Official communication.

With respect to the rejection of dependent claims 2-3, 5, 7, and 9 and submission of new dependent claims 14-15, Applicants submit that these claims are all directly or indirectly dependent from one of allowable independent claims 1 and 6, which are allowable for at least the reasons discussed *supra*. Thus, these claims are submitted to also be allowable for at least the reasons discussed *supra*. Furthermore, these claims recite additional features which further define the present invention over the references of record.

Thus, at least in view of the above, Applicants respectfully submit that each and every pending claim of the present application (*i.e.*, claims 1-3, 5-7, 9, and 14-15) meets the requirements for patentability. Accordingly, the Examiner is respectfully requested to withdraw the 35 U.S.C. § 103 rejection and to indicate the allowance of each and every pending claim in the present application.

CONCLUSION

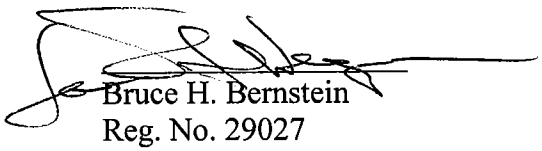
In view of the fact that none of the art of record, whether considered alone, or in any proper combination thereof, discloses or renders obvious the present invention as now defined by the pending claims, and in further view of the above amendments and remarks, reconsideration of the Examiner's action and allowance of the present application are respectfully requested and are believed to be appropriate.

Applicants note that this amendment is being made to advance prosecution of the application to allowance, and should not be considered as surrendering equivalents of the territory between the claims prior to the present amendment and the amended claims. Further, no acquiescence as to the propriety of the Examiner's rejection is made by the present amendment. All amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should the Commissioner determine that an extension of time is required in order to render this response timely and/or complete, a formal request for an extension of time, under 37 C.F.R. §1.136(a), is herewith made in an amount equal to the time period required to render this response timely and/or complete. The Commissioner is authorized to charge any required extension of time fee under 37 C.F.R. §1.17 to Deposit Account No. 19-0089.

If there should be any questions concerning this application, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,
Hirokazu SO et al.



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